

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

MICHELE TOURANGEAU, CIVIL ACTION
Plaintiff Docket No: 2:20-cv-00012-JAW
-versus-

NAPPI DISTRIBUTORS,
Defendant

Transcript of Proceedings

Pursuant to notice, the above-entitled matter came on for **Chambers Conference** held before **THE HONORABLE JOHN C. NIVISON**, United States Magistrate Judge, in the United States District Court, Edward T. Gignoux Courthouse, 156 Federal Street, Portland, Maine, on the 6th day of February, 2023, at 11:22 a.m., as follows:

Appearances:

For the Plaintiff: Danielle M. Quinlan, Esquire
Laura H White, Esquire

For the Defendant: John J. Wall, III, Esquire
Laura Maher, Esquire

Tammy L. Martell, RMR, CRR
Official Court Reporter

(Prepared from manual stenography and
computer-aided transcription)

1 (In Chambers.)

2 THE COURT: So we are on the record in the matter of
3 Michele, is it Tourangeau?

4 MS. WHITE: Tourangeau.

5 THE COURT: Michele Tourangeau and Nappi Distributors,
6 which is the Court's docket 2:20-cv-12, and we're here having
7 just had a conversation off the record prior to jury selection,
8 and I'm going to summarize what I understand to be the
9 agreement of the parties and the Court in terms of how we'll
10 proceed, and if anyone has any objection to it I'll certainly
11 entertain those objections.

12 But we had a written questionnaire of eight questions, and
13 the parties and the Court agreed that a yes response to
14 questions seven and eight would be automatically disqualifying,
15 and there were eight jurors that answered yes to either or
16 both. And pursuant to that agreement, and given the nature of
17 the question, those jurors have been excused for cause based on
18 those answers.

19 The parties -- while there are a number of jurors who
20 answered no to each question, the -- the Court is not going to
21 what we do on occasion which is described as kind of
22 frontloading which is to have the first 16 that would be called
23 down and placed in the box and any thereafter be frontloaded
24 with all no answers.

25 So of the remaining jurors, after the eight are excused,

1 there will just be a random draw of those jurors beginning with
2 the first set of 16 which will be called forward to the juror
3 box.

4 We're drawing 16, but each side has three peremptories,
5 and Judge Woodcock, who is presiding over the trial, has
6 expressed a desire to have ten jurors sit. Mainly, I think,
7 because while we're selecting on the 6th of February, the trial
8 doesn't begin until the 27th, so there is a three-week period,
9 plus the week of the trial, that we want to maintain a jury, so
10 there will be ten. And I will ask a series of oral questions,
11 that I've just reviewed with counsel, as well as ask about the
12 witnesses and the parties.

13 When I've concluded that, I will ask whether there's any
14 further requests or any objections to any of the questions that
15 were posed, and once those have been addressed then the parties
16 will exercise their peremptories.

17 The way we'll conduct the individual voir dire for anyone
18 for whom we need follow-up is the party -- the juror will be
19 called to what we are describing as sidebar, but in essence the
20 juror will come to the jury -- to the witness box, we'll use
21 the headset, we'll all be on headsets, I'll ask the follow-up
22 questions, and then I'll call upon counsel if you want to ask
23 any questions based on my questions or based on the response.
24 Then you can ask them directly of the juror, and I just ask you
25 do not editorialize, just ask the question directly, and once

1 all the questions have been asked of a particular juror, the
2 juror will take the headset off and I'll entertain any
3 challenges for cause.

4 If there is a successful challenge for cause, the juror
5 will be asked to return to the back of the courtroom and one of
6 the jurors will be called forward. I will notify you whether
7 that person has any yes responses to any of the written
8 questions. If so, that person will keep coming to the front of
9 the courtroom, take a seat in the jury box -- the witness box.

10 I'll also ask that juror if there are -- if it happened to
11 be a juror that didn't have any yes responses, I would ask that
12 juror whether he or she has any yes responses to any oral
13 questions, and if the answer to that question is yes then the
14 juror would again keep coming to the witness box. If there are
15 no yes answers to the written questionnaire or to the oral
16 questions, that juror will be seated in the place of the juror
17 who was just asked to return to the back of the courtroom. And
18 we will follow up with individual questions on any juror who
19 answered yes to any one of the questions on the written
20 questionnaire and we'll follow that same process.

21 I think I've outlined how we're going to proceed, but let
22 me just ask from plaintiff's perspective whether you have any
23 questions or concerns or whether I've stated it correctly.

24 MS. QUINLAN: Yep, no questions or concerns in that
25 sense.

1 THE COURT: Okay. Defendant?

2 MR. WALL: You have, Your Honor.

3 THE COURT: Okay. So when I introduce you and your
4 client you can stand up and you can remove your mask so they
5 can see you, and then otherwise, as we did in the selection
6 that you witnessed, we'll all remain masked including the
7 jurors.

8 I will -- I don't know how Judge Woodcock plans to conduct
9 it at trial, but there has I know been some discussion about
10 that order changing somewhat, so if it does change we'll alert
11 you to that.

12 In fact, when -- when we -- before your trial if for some
13 reason there is a change in any of the protocols -- it's
14 conceivable there might be, but more so by your trial which is
15 later in the month than perhaps the trial that we just
16 selected -- but we'll certainly keep you up to date.

17 MS. WHITE: Good.

18 THE COURT: Good, we're all set. See you in the
19 courtroom.

20 MS. WHITE: Thank you, Your Honor.

21 MR. WALL: Thank you, Your Honor.

22 (Time noted: 11:28 a.m.)

23

24

25

C E R T I F I C A T I O N

I, Tammy L. Martell, Registered Merit Reporter, Certified Realtime Reporter, and Official Court Reporter for the United States District Court, District of Maine, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Dated: April 4, 2023

/s/ Tammy L. Martell

Official Court Reporter